

REMARKS

Applicant has considered the outstanding official action. Claims 1, 3-7, 14, 16, 18, 19, 24 and 27-76 are pending in this application. Claims 27-39 are withdrawn. Claims 77-88 have been added. No new matter has been added. It is respectfully submitted that the claims are directed to patentable subject matter as set forth below.

Applicant respectfully acknowledges the examiner's statement that claims 40-54 and 65-76 are allowed.

The examiner has rejected claims 1, 3-7 and 55-64 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,374,719 to Phillips (hereafter "Phillips"). In response to this rejection, attached hereto is the Declaration of William V. Goodhue Under 37 C.F.R. § 1.131 establishing that he invented the subject matter of the rejected claims prior to the effective date of the Phillips patent, which was previously submitted in parent application U.S. Serial No. 09/929,085, now U.S. Patent No. 6,612,470 B2 issued September 2, 2003. Accordingly, Phillips is not a reference to the claimed invention and applicant respectfully requests withdrawal of the rejection of claims 1, 3-7 and 55-64 based on Phillips.

Claims 16, 24 and 61 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,473,991

to Ludwig (hereafter "Ludwig"). Applicant respectfully traverses the rejection.

Applicant's claimed invention, as in claims 16 and 61, is directed to a system for packaging fasteners. The system comprises a plurality of fasteners each having a shank with a shank diameter, a tray having a plurality of wells or openings, each well or opening being sized to accommodate or receive the shank of a respective fastener therein, and an attachment device which secures the tray to the user. Accordingly, the invention is directed to packaging fasteners. The fasteners have a structure such that the fasteners have a shank and a shank diameter. The invention includes a tray having a plurality of wells or openings. The wells or openings are openings in the tray for the shank of the fastener.

The Ludwig patent is directed to a method for bonding a plastic foam pad onto, and without warping, a heat-warpable thermoplastic body member. Ludwig further discloses a wrist pin cushion. The wrist pin cushion includes a pad 17 of plastic foam to serve as a cushion for pins and needles. The pad 17 is made of plastic foam made of rubber.

Ludwig does not disclose the claimed invention within the meaning of 35 U.S.C. § 102(b). A rejection for

anticipation under § 102(b) requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). Ludwig does not disclose, inter alia, a plurality of fasteners having a shank with a shank diameter, or a tray having a plurality of wells or openings, each of the wells or openings being sized to accommodate the shank of a respective fastener. As set forth above, the claims require fasteners of a specific structure such that they have a shank. Ludwig does not disclose a fastener having a shank. Further, the claimed invention requires a plurality of wells or openings. Ludwig does not disclose a tray having a plurality of wells or openings. The pad 17 of Ludwig is made of plastic foam and does not have a plurality of wells or openings as claimed. Accordingly, applicant respectfully requests withdrawal of the § 102(b) rejection.

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Phillips. Based on the grounds of rejection in paragraph 5 of the official action, applicant believes that the examiner is referring to claim 14 instead of claim 16 since claim 14 claims the tray being formed from styrofoam and addresses the rejection accordingly. Phillips is not a reference to the claimed invention as provided

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above and applicant respectfully requests withdrawal of the rejection.

Applicant acknowledges the examiner's statement that claims 18 and 19 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. For the reasons set forth above, the base claim 16 is allowable and, therefore, applicant has not rewritten these claims in independent form.

Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

WILLIAM V. GOODHUE

By


Theodore A. Breiner, Attorney
Registration No. 32,103
BREINER & BREINER, L.L.C.
115 North Henry Street
P.O. Box 19290
Alexandria, Virginia 22320-0290

Telephone (703) 684-6885

Attachment - Declaration of Goodhue with Exhibits 1 and 2